

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Tribal Welfare-Khammam District-Revision Petition filed Under Section 6 of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 by Pinnaboina Venkaiah (Died) represented by Pinnaboina Satyanarayana S/o Late Venkaiah R/o Gunnepalli (V) Dammapeta (M) Khammam District against the orders of the Agent to Government, Khammam in CMA No:8/99 Dated: 31-10-2003-Dismissed-Orders-Issued.

SOCIAL WELFARE (LTR-2) DEPARTMENT

G.O.Ms.No: 184

**Dated:16-09-2008.
Read the following**

1. From R.Srinivasa Rao counsel for the petitioner Revision Petition dt: 4-12-2003.
2. Government Memo No:169957/LTR2/2004 dt:22-7-2004.
3. From the Collector, Khammam RC. No:F2/CMA.08/99 dt:2-7-2006.
4. Government Telegram No:169957/LTR2/2004 dt:3-4-2007.
5. Government Memo No:169957/LTR2/2004 dt:7-6-2007.

ORDER:

In the reference 1st read above Sri Pinnaboina Satyanarayana S/o of Late Venkaiah has filed a Revision Petition before the Government against the orders of the Agent to Government, Khammam in CMA NO:8/99 dt:31-10-2003 in respect of lands admeasuring Acres 3.29 guntas in Sy. No.2 situated at Gunnepally (V) of Dammapeta (M) Khammam District. The main grounds of the appellant in the Revision Petition among others are:

- i) That his father Pinnaboina Venkaiah had purchased the land out of Sy.No.2 to an extent of Acs.3.20 gts. situated at Gunnepalli (v) of Dammapeta Mandal in Khammam District, for a total amount of Rs.375/- from Gowri Ayyanna on 21.7.1959 (i.e. father of the tribal respondent in this RP) and a sada agreement was executed. Since then his father was in physical possession till his death in the year 1991 and later on he came into possession and enjoyment over the land with all rights of ownership and possession. His father paid land revenue from 1959 to till his death 1991 and thereafter by him.
- ii) Special Deputy Collector (TW), Paloncha in LTR Case No.1535/74, dt. 24.2.1976 issued orders in his favour that the transfer of the land was took place prior to 1963. Subsequent case No.77/87 on the same subject land in the same was dropped on the law of Resjudicata.
- iii) Once the issue in case No.1535/74 was decided on merits after hearing both parties to the proceedings, the same is final.

2. The brief facts of the case are that the Lower Court initiated the case against the petitioner Sri P.Venkaiah (NT) as the transfer of the land took place prior to 1963, and the case was dismissed on 24-2-1976. Again in the year 1987, on a petition filed by Sri Gowri Ram Das (Tribal) before the lower court and after examination of the material papers available on record, Lower Court held that this matter was already enquired in the same court and disposed of the case vide No.1535/74, dt:24-2-1976 and dropped the case under Principles of Resjudicata in its order dt:30-10-1987 in case No.77/87/DPT. Aggrieved by the order of the Special Deputy Collector (TW), Palavanha Gowri Ram Das (Tribal Respondent in R.P.) filed an appeal before the Agent to Government. The Agent to Government, Khammam after verifying the records held that Pinnaboina Venkaiah(Revision petitioner) failed to file original sale document and the land revenue receipts said to have been paid the Land Revenue to Government are only white papers having no official seal or attestation of any authority that Under rule 9(2)(vi)(a)(iv) of ROR Act, the LTR Act supersedes the ROR on and the lower authorities without observing the above statutory provisions had issued pattedar Pass Book and Title Deed in favour of Non Tribe erroneously which is void. The Agent to Government, Khammam further held that the Pinnaboina Venkaiah (Non Tribe) came into possession of the land in contravention of Sub-Section (1) of section (3) of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1/1959 r/w amended Regulation 1/70 and hence set aside the order passed by the lower court on 30-10-1987 in case No.77/87/DPT and the order passed on 24-2-1976 in LTR Case No.1535/74 and allowed the appeal in CMA No;8/99 dt:31-10-2003 Aggrieved by the order of the Agent to Government, Pinnaboina Venkaiah (Non-Tribe) filed a Revision Petition before the Government.

3. In the reference 2nd read above, the Agent to Government, Palvancha was requested to furnish parawise remarks and case records and the same were furnished in the reference 3rd read above. After examination of the case records notices were issued to the concerned to attend the hearing of the Revision Petition on 9-4-2007 and finally on 16-6-2007 through the reference 4th and 5th read above. Both the petitioner and his counsel were absent.

4. Government after careful examination of the material evidence on record found that:

- a) The land in question is recorded as patta in the name of the tribal appellant and his father. Pinnaboina Venkaiah i.e. father of the petitioner and Batta Pullaiah were recorded as occupants.
- b) Non-tribal respondent i.e. Revision petitioner filed only Xerox copy of the sada sale deed and Xerox copies of LR receipts pertaining to 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966 and 1967. Non-tribal failed to file original sale sdocument at any time during the course of trial of the case which strengthens contention of the tribal appellant in appellate court "that the sale document is false and is brought into existence by the non-tribal in order to grab the property belonging to the tribal. As per the sale, it is a joint purchase of Batta Pullaiah and Pinnaboina Venkaiah, whereas the name of Batta Pullaiah was not appeared in the pahani till 1971-72. Therefore, it is a forged document and if at all they have purchased the land, names of both parties should have been shown. The hand-writing is new on old paper". LR receipts are only white papers having no official seal or attestation of any authority. Had the appellant actually paid the LR to the Govt. definitely acknowledgements in token of receipts of the payment would have been passed in "Pahuthi Bahi" (LR collection pass book) but Xerox copies cannot be taken into consideration in the absence of LR receipts.
- c) The Hon'ble High Court of AP in CRP No.1087/96, dt. 10.8.1998 in Bangaru Rama Thulisamma Vs Yada Masthan Reddy held that unstamped and unregistered sale deeds cannot be taken as an evidence of proof according to Section 17 B of Registration Act. The sale consideration was Rs.375/-. The Chapter III, Sec. 54 of Transfer of Property Act, 1882 defines that in case of tangible immovable property of the value of hundred rupees and upwards, or in the case of a reversion or other tangible thing can be made only by a registered document."

5. Government after careful examination of the case records finds no reason to interfere with the orders of the Agent to Government, Khammam in CMA No.8/1999 dt:31-10-2003 and accordingly dismiss the Revision Petition.

6. The Collector Khammam District / Agent to Government, Khammam is requested to take necessary action in the matter.

(BY ORDER AND N THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,
PRL. SECRETARY TO GOVERNMENT

To

The Collector, Khammam District. (W.E.)

1. LTRP Case No:1535/74 containing 34 pages.

2.CMA No:8/99 containing 254 pages.

The Agent to Government, Khammam District

The Special Deputy Collector (TW), Palvancha, Khammam District.

Sri. Pinnaboina Satyanarayana (NT) S/o Late Venkaiah,

R/o Gunnepally, Dammapata (M), Khammam District.

Sri Gouri Ram Das, S/o Ayyanna, (ST)

R/o Gunnepally, Dammapata (M), Khammam District.

Sri Ravulapati Sreenivas Rao & T.L.K.Sharma, Adv.

H.No.1-3-183/40/68/c/2, Gandhi Nagar,

S.B.I. Colony, Hyderabad.

The P.S. to M (TW & RAID).

SF / SC.

// FORWARDED BY ORDER //

SECTION OFFICER